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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION
APR 24 2015

BY VERONICA L. GARCIA, DEPUTY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN BERNARDINO**
12 **LIMITED JURISDICTION**

Case No. **CIVDS1505870**

13 **BILL UZETA, an individual,**

14 Plaintiff,

15 vs.

16 **MIDLAND CREDIT MANAGEMENT,**
17 **INC.; and DOES 1 through 10, inclusive,**

18 Defendant.

) **COMPLAINT FOR VIOLATION**
) **OF ROSENTHAL FAIR DEBT**
) **COLLECTION PRACTICES ACT AND**
) **FEDERAL FAIR DEBT COLLECTION**
) **PRACTICES ACT**

) **(Amount not to exceed \$10,000)**

-) 1. Violation of Rosenthal Fair Debt
) Collection Practices Act
) 2. Violation of Fair Debt Collection
) Practices Act

20 **I. INTRODUCTION**

21
22 1. This is an action for damages brought by an individual consumer for Defendant's
23 violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.*
24 (hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.*
25 (hereinafter "FDCPA"), both of which prohibit debt collectors from engaging in abusive,
26 deceptive, and unfair practices.
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II. PARTIES

2. Plaintiff, Bill Uzeta ("Plaintiff"), is a natural person residing in San Bernardino County in the State of California and is a "consumer" as defined by the FDCPA, 15 U.S.C. §1692a(3) and is a "debtor" as defined by Cal Civ Code §1788.2(h).

3. At all relevant times herein, Defendant, Midland Credit Management, Inc. ("Defendant"), was a company engaged, by use of the mails and telephone, in the business of collecting a debt from Plaintiff which qualifies as a "debt," as defined by 15 U.S.C. §1692(a)(5), and a "consumer debt," as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts alleged to be due another, and therefore is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692(a)(6), and RFDCPA, Cal Civ Code §1788.2(c).

4. Plaintiff does not know the true names and capacities, whether corporate, partnership, associate, individual or otherwise, of Defendants sued herein as Does 1 through 10, inclusive, and therefore names said Defendants under provisions of Section 474 of the California Code of Civil Procedure.

5. Plaintiff is informed and believes, and on that basis alleges that Defendants Does 1 through 10 are in some manner responsible for acts, occurrences and transactions set forth herein and are legally liable to Plaintiff.

III. FACTUAL ALLEGATIONS

6. At various and multiple times prior to the filing of the instant complaint, including within the one year preceding the filing of this complaint, Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.

7. Defendant has placed calls to Plaintiff on a daily basis via telephone number (800) 282-2644 in its attempt to collect an alleged debt.

1 8. On information and belief, Defendant called Plaintiff four or more times per day
2 in its attempt to collect an alleged debt.

3 9. On information and belief, Defendant called Plaintiff fifteen or more times per
4 week in its attempt to collect an alleged debt.

5 10. On one occasion, Plaintiff asserts that Defendant used the name of Plaintiff's
6 friend to get Plaintiff to acknowledge it was Plaintiff that Defendant was speaking with and
7 once Plaintiff did so, Defendant's agent identified himself and proceeded to collect the alleged
8 debt from Plaintiff.

9 11. Plaintiff further asserts that Defendant's agent told Plaintiff that the debt needed
10 to be paid regardless if Plaintiff was working or not.

11 12. Plaintiff contends that Defendant also placed calls to his cellular phone number.
12 Defendant called Plaintiff's cellular phone number incessantly that Plaintiff had to turn off
13 service to his cellular phone number just to get some relief from Defendant's calls.

14 13. Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways,
15 including but not limited to:

- 16 a) Engaging in conduct the natural consequence of which is to harass, oppress, or
17 abuse Plaintiff (§1692d);
- 18 b) Causing a telephone to ring or engaging any person in telephone conversation
19 repeatedly or continuously with intent to annoy, abuse, or harass any person at
20 the called number (§1692d(5));
- 21 c) Using false, deceptive, or misleading representation or means in connection with
22 the debt collection (§1692(e));
- 23 d) Causing a telephone to ring repeatedly or continuously to annoy Plaintiff
24 (Cal Civ Code §1788.11(d));

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- 1 e) Communicating, by telephone or in person, with Plaintiff with such frequency as
2 to be unreasonable and to constitute a harassment to Plaintiff under the
3 circumstances (Cal Civ Code § 1788.11(e)).

4 14. As a result of the above violations of the FDCPA and RFDCPA, Plaintiff
5 suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation,
6 embarrassment, mental anguish and emotional distress, and Defendant is liable to Plaintiff for
7 Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

8 **COUNT I: VIOLATION OF ROSENTHAL**
9 **FAIR DEBT COLLECTION PRACTICES ACT**

10 15. Plaintiff reincorporates by reference all of the preceding paragraphs.

11 16. To the extent that Defendant's actions, counted above, violated the RFDCPA,
12 those actions were done knowingly and willfully.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant
15 for the following:
16

- 17 A. Actual damages;
18 B. Statutory damages for willful and negligent violations;
19 C. Costs and reasonable attorney's fees; and
20 D. For such other and further relief as may be just and proper.

21 **COUNT II: VIOLATION OF FAIR DEBT**
22 **COLLECTION PRACTICES ACT**

23 17. Plaintiff reincorporates by reference all of the preceding paragraphs.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant
26 for the following:
27


28 //

- 1 A. Actual damages;
2 B. Statutory damages;
3 C. Costs and reasonable attorney's fees; and,
4 D. For such other and further relief as may be just and proper.

5 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

6 Respectfully submitted this April 22, 2015.

7
8
9 By:



Paul Mankin, Esq.
Law Office of L. Paul Mankin
Attorney for Plaintiff